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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,198	04/14/2004	Aric Benedict	3308-053	5865
4678	7590	11/21/2005		
MACCORD MASON PLLC 300 N. GREENE STREET, SUITE 1600 P. O. BOX 2974 GREENSBORO, NC 27402			EXAMINER DEUBLE, MARK A	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/824,198

**Applicant(s)**

BENEDICT ET AL.

**Examiner**

Mark A. Deuble

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 21, 27-35, 37 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 11, 13-19, 24-26, 36, 38-44, 48-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,759,594 to Kleboe et al. as in the Office action of May 31, 2005.

The belt tension assembly capable of being used for a conveyor having at least one conveyor belt and a pair of opposed rollers disclosed by Kleboe et al. includes all the claimed features and in particular includes: a roller support 62 connected to a roller 72; a roller support rod 76 for movably connecting the roller support to the frame; a roller support rod spring 82 between the support rod and the frame 54; a spring adjustment assembly 80; and the spring 82 being a compression spring.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been **obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10, 12, 20, 21, 27-35, 37 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotter et al. in view of Kleboe et al. as in the Office action of May 31, 2005.

The conveyor system disclosed by Cotter et al. includes: **(claims 1, 27)** a cantilevered frame 210 having at least one conveyor belt 230; **(claims 2, 3, 28)** an upstream accumulator 112, 212 including a frame; at least one belt; at least one pair of opposed rollers and a motor; **(claims 4, 29)** an

accumulator control system (column 8, line 64 thru column 9, line 27); (claims 5, 30) package presence detectors 124; (claims 6, 31) the accumulator control system including an interface to the primary conveyor (column 8, line 64 thru column 9, line 27); (claims 7, 12, 32, 36) the cantilevered frame including a base 214 and a trapezoidal cantilevered deck comprised of rollers attached to the base 214; (claims 8, 33) the base being lazy L-shaped; (claims 9, 10, 34, 35) the base including a vertical support wall 216 including a horizontal deck (figure 10); and (claims 20, 21, 45, 46) the cantilevered frame including a belt drive 224.

Cotter et al. does not disclose a belt tension assembly attached to the conveyor frame. However, Kleboe et al. discloses the broad teaching of providing a conveyor, including a plurality of conveyor belts each having a pair of rollers, with a tension assembly including a roller support 62 connected to a roller 72; a roller support rod 76 for movably connecting the roller support to the frame; a roller support rod spring 82 between the support rod and the frame 54; a spring adjustment assembly 80; and the spring 82 being a compression spring. It would have been obvious to one of ordinary skill in the art to provide the cantilevered conveyor disclosed by Cotter et al. with a tension assembly to facilitate keeping the belts under proper tension and allowing for easy replacement of individual belts as taught by Kleboe et al.

#### ***Response to Arguments***

5. Applicant's arguments filed August 29, 2005 have been fully considered but they are not persuasive.

Applicant's representative argues that neither Cotter et al. nor Kleobe et al teaches a cantilevered conveyor belt system. The examiner respectfully disagrees. As is illustrated in Fig. 8 of Cotter et al., the conveyor frame 210 is cantilevered out from the main conveyor 212. Merriam Webster's Collegiate Dictionary: Tenth Edition defines a cantilever as "a projecting

beam or member supported at only one end.” The frame 210 illustrated in Fig. 8 appears to fit within this definition because it is supported only along the angled end of the frame.

***Allowable Subject Matter***

6. Claims 11, 13-19, 24-26, 36, 38-44 and 48-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER